IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

OP.No. 4206 of 2000(A)

PETITIONERS:
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1. **RAMAKRISHNAN, S/O. VELAYUDHAN, THODUKADIL HOUSE, VAVULLYAPURAM, THAROOR-II, VILLAGE, ALATHUR, PALAKKAD DISTRICT.**

2. **PARAMESWARAN, S/O. DO. IN DO.**

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.P.B.KRISHNAN

RESPONDENTS:
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1. **THE SUB COLLECTOR, REVENUE DIVISIONAL OFFICE, PALAKKAD.**

2. **THE VILLAGE OFFICER,. THAROOR -II, VILLAGE, VAVULLYAPURAM ALATHUR, PALAKKAD.**

3. **SULAIMAN, S/O. YOUSUFF, THODUKADU, HOUSE, VAVULLYAPURAM POST, ALATHUR, PALAKKAD.**

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.JIJIMOL J.VADAKKEN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.4206/2000

ORDER ON CMP. NO.6866/2000 IN OP. NO.4206/2000

DISMISSED

29.10.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTIC NO.8743/99/H ISSUEDBY RESPONDENT NO.1 TO THE PETITIONERS. DT. 7.8.99.

EXT.P2:- COPY OF THE OBJECTION FILED BY THE PETITIONERS BEFORE THE IST RESPONDENT DT. 23.8.99.

EXT.P3:- COPY OF THE NOTICE NO.H.8743/99/H ISSUED BY THE IST RESPONDENT TO THE PETITIONERS. DT.22.9.99.

EXT.P3(a):- COPY OF THE COMPLAINT FILED BY THE 3RD RESPONDENT BEFORE THE RDO , PALAKKAD.

EXT.P4:- COPY OF THE OBJECTION FILED BY THE PETITIONERS BEFORE THE IST RESPONDENT.DT. 28.10.99.

EXT.P5:- COPY OF THE NOTICE DT. 8743/99/H2 ISSUED BY IST RESPONDENT TO THE PETITIONER. DT. 14.1.2000.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.4206 OF 2000

Dated this the 29th day of October, 2007

JUDGMENT

The petitioner faced orders issued under the Kerala Land Utilisation Order, 1967, in relation to a piece of land.

2. A perusal of the counter affidavit of the third respondent would show that the primary controversy is not as to whether the land in question ought to be put to paddy cultivation, but that the coconut trees standing in the property of the writ petitioner result in nuisance to the paddy field of the third respondent.

3. Whatever be the rival contentions, the impugned orders have been issued without adjudicating on any of the issues. It has also to be noticed that if the complaint of the third respondent is not referable exclusively to the provisions of the Land Utilisation Order, then an order cannot flow from those provisions.

In the aforesaid circumstances, this writ petition is allowed quashing the impugned Ext.P5. The consequent proceedings under the Land Utilisation Order will stand remitted and the third respondent will conclude the proceedings following this remit within a period of six months from the date of receipt of a copy of this judgment, after affording sufficient opportunity of being heard, to the petitioner and to the first respondent.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.4206 OF 2000

JUDGMENT

29th OCTOBER, 2007.

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